

# EXHIBIT C

Hearing before Hon. A.K. Hellerstein (21 MC 100) 4/15/2011 2:20:00 PM

1

2

1 14FAAWORC1 Conference  
 2 UNITED STATES DISTRICT COURT  
 2 SOUTHERN DISTRICT OF NEW YORK  
 3 -----x  
 3 IN RE WORLD TRADE CENTER  
 4 DISASTER SITE LITIGATION  
 4 -----x 21 MC 100(AKH)  
 5 New York, N.Y.  
 5  
 6 April 15, 2011  
 6 2:20 p.m.  
 7  
 7 Before:  
 8  
 8 HON. ALVIN K. HELLERSTEIN,  
 9  
 9 District Judge  
 10  
 10 APPEARANCES  
 11  
 11 WORBY GRONER EDELMAN & NAPOLI BERN, LLP  
 12 Attorneys for Plaintiffs  
 12 350 Fifth Avenue  
 13 New York, New York 10118  
 13 BY: PAUL NAPOLI  
 14 CHRISTOPHER R. LOPALO  
 14  
 15 SULLIVAN PAPAIN BLOCK McGRATH & CANNAVO P.C.  
 15 Attorneys for Plaintiffs  
 16 120 Broadway  
 16 New York, New York 10271  
 17 BY: ANDREW J. CARBOY  
 17  
 18 SCHIFF HARDIN LLP  
 18 Attorneys for Defendant  
 19 The Port Authority of NY and NJ  
 19 900 Third Avenue  
 20 New York, New York 10022  
 20 BY: BETH D. JACOB  
 21 PAUL SCRUDATO  
 22  
 23  
 24  
 25

1 APPEARANCES CONTINUED  
 2  
 2 PATTON BOGGS LLP  
 3 Attorneys for Defendants  
 3 The City of New York and  
 4 contractors  
 4 The Legal Center  
 5 One Riverfront Plaza  
 5 Newark, New Jersey 07102  
 6 BY: JAMES E. TYRRELL, JR.  
 6 JOSEPH E. HOPKINS  
 7  
 7 McDERMOTT WILL & EMERY LLP  
 8 Attorneys for Defendants  
 8 WTC Captive Insurance Co.  
 9 600 Thirteenth St. N.W.  
 9 Washington, D.C. 20005-3096  
 10 BY: DAVID BIESLER  
 11 - also present -  
 12 KREINDLER & KREINDLER LLP  
 12 750 Third Avenue  
 13 32nd Floor  
 13 New York, New York 10017  
 14 BY: NOAH KUSHLEFSKY  
 15 And Special Masters, et al.  
 16 oOo  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

3

4

1  
 2 (Case called)  
 3 THE COURT: Good afternoon, everyone. Please be  
 4 seated.  
 5 You should know -- find seats, folks -- that I have  
 6 received another report from Mr. Garretson and posted it on the  
 7 web -- substantial progress in making a payments. I don't have  
 8 the dollar numbers and I don't have a good recollection of what  
 9 I posted on the web yesterday but it's very pleasing at the  
 10 progress that had been made and continues to be made. There  
 11 are a certain number of plaintiffs who've still not completed  
 12 the forms they have to fill out and I don't know the  
 13 significance of that or whether there are issues that need to  
 14 come to me that happened.  
 15 I have not yet decided the question raised by the  
 16 objections of the Captive Insurance Company with regard to the  
 17 obligation to make incentive payments. That was the subject of  
 18 an earlier order which has been challenged. And since I issued  
 19 that order without the benefit of briefing from both sides I  
 20 need to consider that position carefully and consider the  
 21 respective positions set out in the briefs and come to a  
 22 decision. I am disappointed in my own lack of progress which I  
 23 hope to remedy as soon as I can. That's a fancy way of saying  
 24 I haven't gotten to it yet but I will. There's been other  
 25 things that keep on emerging and pushing it backwards, so not

1 only this case but other of the 9/11 cases and indeed my whole  
 2 calendar.  
 3 Mr. Biesler, is there anything that you want to add to  
 4 the issues I just touched on?  
 5 MR. BIESLER: Just a couple of highlights from  
 6 Mr. Garretson's report if you like.  
 7 There has been a total of about \$36.9 million in  
 8 payments sent out to the plaintiffs' firms for distribution to  
 9 their respective clients, precisely \$36,850,830.27. As the  
 10 report reflects 9,675 of the primary plaintiffs have been paid  
 11 to date. That's about 95.6 percent of them.  
 12 In terms of upcoming important milestones  
 13 Mr. Garretson's report reflects that medical records review is  
 14 well under way and he anticipates Tier IV interim payments in  
 15 about six weeks by the end of May and further expects to  
 16 complete final distributions this calendar year by December.  
 17 From our perspective the process is moving along very  
 18 well. There are a few individuals who have some issues with  
 19 paperwork. We have been working through that with the mutual  
 20 plaintiffs' counsel. And you could see in the report that a  
 21 fair number of the remaining outstanding issues in that regard  
 22 relate either to estates that are still being probated or  
 23 otherwise have liens that are still being resolved. So we are  
 24 very pleased with the progress to date and very comfortable  
 25 with the work by allocation.

Hearing before Hon. A.K. Hellerstein (21 MC 100) 4/15/2011 2:20:00 PM

17

18

1 and developed according to what might be good there. Both  
 2 aspects of the process were pleasantly interrupted by the  
 3 announcement of the settlement.  
 4 In working these 78 cases out now with the benefit of  
 5 a great deal of experience I try to consider how to gain the  
 6 requisite measure of specificity. I've considered the case  
 7 management order number 10 that I signed in the context of the  
 8 special process agreement and I've considered the experience I  
 9 in trying to elicit specificity through pleadings at an earlier  
 10 stage of the case. And I thought that neither goal as it was  
 11 put out to me would give me the kind of progress that I thought  
 12 would -- in these case. To try to borrow and adapt and take as  
 13 much as possible to create a procedure that really is  
 14 unprecedented given the variety of the cases and the number of  
 15 cases and the seriousness of these cases and the hot crucible  
 16 of 9/11, I developed a procedure we had using the population of  
 17 the database and achieving uniformity with values that have now  
 18 have been tested to some substantial degree with the earlier  
 19 settlement enables counsel to fix values and to be able to fix  
 20 values as information comes in in a much more reliable way.  
 21 With the confidence of a 95 percent plus vote of  
 22 acceptance even though we have a field of plaintiffs who did  
 23 not wish to join us, we have values that could come very close  
 24 to creating an order of settlements for those who wish to  
 25 settle. And for those who didn't wish to settle we would have

1 a pathway towards trial. That system worked before. That's  
 2 why I think it would work now and that is why I am adopting the  
 3 system.

4 So we will reduce the questions as Mr. Tyrrell  
 5 suggests. We will come out with the medical reports from both  
 6 sides as Mr. Tyrrell suggests. But in order to do that  
 7 effectively we need releases from every plaintiff in those 78  
 8 And if I find that the authorizations are not advanced I can  
 9 conclude that that plaintiff is not moving his case ahead and  
 10 may be risky and involuntary dismissal.

11 So not only will plaintiff lose his eligibility but he  
 12 may also lose his status as plaintiff. So we don't have to  
 13 anticipate what will come but I want everybody to know that the  
 14 obligation to give -- is a serious one and cannot be neglected.

15 Now, Mr. Tyrrell, what is a good date to require that?

16 MR. TYRRELL: Your Honor, given the fact you've  
 17 ordered it already, I would say seven days from now would be  
 18 the outside date and we would take on to provide the written  
 19 authorization. It's only a form you have to sign. It's not a  
 20 big deal.

21 THE COURT: So you would provide the authorization say  
 22 Tuesday coming?

23 MR. TYRRELL: We've provided them already, your Honor.  
 24 All we want is them back signed by the plaintiffs.

25 THE COURT: I'd like to attach it to the order. So

19

20

1 Mr. Hopkins could send Mr. Roth a copy of that which has been  
 2 set out. The obligation will be returned let's say by next  
 3 Friday.

4 MR. TYRRELL: What the problem has been so you now  
 5 know and we are going to clarify that if what we provide your  
 6 Honor's chambers some of these come back signed by the  
 7 attorneys.

8 THE COURT: They have to be signed by the individual.

9 MR. LOPALO: Your Honor?

10 THE COURT: Yes, Mr. Lopalo.

11 MR. LOPALO: We have been doing this exchange for the  
 12 past several years. My office has been signing the  
 13 authorizations on behalf of clients with power of attorney and  
 14 that works. My office uses that type of authorization every  
 15 day. And uses it with Mount Sinai. Uses it with private  
 16 medical insurances and uses it with the city.

17 THE COURT: If the power of attorney is attached,  
 18 Mr. Hopkins, will the city accept that?

19 MR. HOPKINS: We've had occasion with many providers,  
 20 your Honor, and it's pushed back to the further --

21 THE COURT: There is no reason why the clients  
 22 themselves should not be signing it.

23 MR. LOPALO: We'll need more than next Friday to get  
 24 this accomplished.

25 THE COURT: Mr. Lopalo, if you cannot provide this

1 individuals by Friday a letter from your office stating the  
 2 precise approximate date by which they will be provided will be  
 3 satisfactory to avoid any sanction but you must have that on an  
 4 individual basis.

5 MR. TYRRELL: Your Honor, when this is done we will  
 6 render to you a report that indicates all that have done it and  
 7 which ones are missing so that your Honor can then decide where  
 8 to go from there.

9 THE COURT: Thank you.

10 MR. TYRRELL: Your Honor, if I can go to a slightly  
 11 different subject. I know -- we're starting of course with  
 12 these 78, none of whom are the 60 we discovered before as your  
 13 Honor well knows. But we learned a lot in probing it to get  
 14 full medical records from the city and I am speaking now only  
 15 about the City of New York, as to these 78 many of them are  
 16 firemen, policemen and others who are city workers, some are  
 17 not. The city -- I know from past experience -- so the city  
 18 needs to fully complete the job, not May 13 but June 1. We'll  
 19 produce --

20 THE COURT: Sorry?

21 MR. TYRRELL: June 1, another two weeks because a of  
 22 lot of these medical records, current medical records are  
 23 easier to get but for people who have been fire officers for 20  
 24 years, a lot of this is in archives on old computer dates.  
 25 It's hard to get it out.